

schneider, marchant

From: David Ludwig [dludwig@dglegal.com]
Sent: Monday, December 14, 2009 3:02 PM
To: schneider, marchant
Subject: RE: conditions of approval - dulles industrial park

Marchant:

Here are our thoughts on the notice issue. The applicant has been in constant contact with adjacent property-owners throughout the process and we met the 5-day notice deadline, so we believe the planning commission has the authority to waive formal notice in favor of the informal patten of communication between the parties and the actual 5-day notice. Can you run this up the flag pole and see if it's worth pursuing? If we're taking an unreasonable position here, just let me know and we'll re-advertise for January commission / February Board.

Best Regards,
David Ludwig

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From: David Ludwig
Sent: Friday, December 11, 2009 6:18 PM
To: 'schneider, marchant'; Roy Clark; Thomas M. Dunlap
Subject: RE: conditions of approval - dulles industrial park

Hi Marchant:

Here are my notices from the 12/10 Planning Commission Meeting about the commission's (unresolved) questions about SPEX 2009-0006:

- 1) Does the permitted special use (bulk gas, petroleum, natural gas) include propane storage?
- 2) Check with building & Development about dedication of the abandoned well for storage purposes. (I didn't understand this one. Please advise if this will impact the client or this would require client approval.)
- 3) Is the 6' tall fence sufficient for security purposes?

I will send you an email shortly, under separate cover, about the notice issue.

Best Regards,
David Ludwig

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**TO APPLICANTS OF
ZMAP, ZCPA, RZPA, ZCON, ZMOD, CMPT AND SPEX APPLICATIONS,
APPEALS AND VARIANCES
Processed Under the Revised 1993 Zoning Ordinance**

To ensure that a required public hearing is conducted in accordance with applicable notice provisions of *Section 6-600, Notice Required for Public Hearings*, the applicant is responsible for completing the following items relating to notification:

POSTING OF PROPERTY [*Reference Section 6-601 (B)*]:

The applicant shall post the subject property using the placards provided by the County. The posting shall occur at least **21** days and no more than **30** calendar days prior to the public hearing. The placard(s) shall be affixed to a pole, post, fence, or other structure to be clearly visible from each public road abutting the property. If no public roads abut the property, then the placard(s) shall be posted to be clearly visible from at least two abutting properties and at the access point(s) to said property.

MAINTENANCE AND REMOVAL OF PLACARDS [*Reference Section 6-601 (B) (3)*]:

The applicant shall maintain all placards up to the time of the hearing and shall remove all posted placards no later than **15** calendar days after the public hearing has been closed.

NOTIFICATION OF PROPER PARTIES [*Reference Section 6-601 (A)*]:

Two (2) separate written public hearing notices **must** be mailed to the relevant parties as described below:

- (a) **First Notice**: Written first notice of the public hearing shall be sent to the owner or owners, or their agent, of each parcel involved and to the owner or owners, or their agent of all abutting property and all property immediately and diagonally across the street or road from the subject property. Such first notice must be mailed at least **21** and no more than **30** calendar days before the hearing and shall be made by first class mail. Such first notice shall be sent to the last known address of the owner as shown on the County's current real estate tax assessments records.

In addition, if any portion of the subject property is within a planned development district, then written notice of the public hearing shall also be given to the incorporated property owners association existing within the planned development district that has members owning property within 2,000 feet of the subject property. Such first notice must be mailed at least **21** and no more than **30** calendar days before the hearing. Notice shall be sent by registered or certified mail to the last known address of the registered agent as listed by the State Corporation Commission.

Further, for a zoning map amendment or special exception application, notice of application will be given to adjoining counties or municipalities inside the Commonwealth and within one-half mile of the subject property. Such first notice must be mailed at least **21** and no more than **30** calendar days before the hearing and shall be made by first class mail.

Please include a copy of the vicinity map with the letters to the adjacent property owners.

- (b) **Second Notice:** Different requirements apply depending on the number of Tax Map Parcels involved in the application.

(1) For applications involving **25 or fewer tax map parcels**, written second notice of the public hearing shall be sent to the owner or owners, their agent, or the occupant of each parcel involved and to the owner or owners, their agent, or the occupant of all abutting property and all property immediately and diagonally across the street or road from the subject property. Such second notice must be mailed at least **five (5)** calendar days before the hearing and shall be mailed by registered or certified mail. Such second notice shall be sent to the last known address of the owner as shown on the County's current real estate tax assessment records.

In addition, if any portion of the subject property is within a planned development district, then written notice of the public hearing shall also be given to the incorporated property owners associations existing within the planned development district that have members owning property within 2,000 feet of the subject property. Such second notice must be mailed at least **five (5)** calendar days before the hearing. Notice shall be sent by registered or certified mail to the last known address of the registered agent as listed by the State Corporation Commission.

Further, for a zoning map amendment or special exception application, notice of application will be given to adjoining counties or municipalities inside the Commonwealth and within one-half mile of the subject property. Such first notice must be mailed at least **21** and no more than **30** calendar days before the hearing and shall be made by first class mail.

(2) If the application involves **more than 25 tax map parcels**, then the second notice to required property owners and if applicable, adjoining counties or municipalities inside the Commonwealth and within one-half mile of the subject property may be made by first class mail. However, the second notice to the registered agent of the incorporated owners association must be made by registered or certified mail.

CERTIFICATION [Reference Section 6-601 (A) (7)]:

At least **five (5)** days prior to the hearing, an affidavit prepared by the person or their representative providing notice, shall be filed with the Director of Planning certifying that first and second notices have been sent as required. Such affidavit shall include a list of the parties to whom the notice was sent. **A counterpart of such affidavit shall be presented at the beginning of the public hearing on the application.**